

NON-DISCLOSURE AGREEMENT FOR MODTRAN4

The Air Force Research Lab, Space Vehicles Directorate, is pleased to announce the release of **MODTRAN4** as a fully **UNCLASSIFIED** atmospheric radiative transfer code and algorithm. MODTRAN4, developed in conjunction with Spectral Sciences, Inc., follows the prior releases of LOWTRAN (now fully obsolete) and the earlier MODTRAN3 series. Note that MODTRAN4 is not just a new version of MODTRAN, but rather a sufficiently new algorithm that has been awarded a separate **U.S. Patent, # 5,884,226; 16 March 1999**

As a new AF product, MODTRAN4 is being released with a **User and Support Fee** assessment of **\$300/copy**, with ~\$50 of that fee going to ONTAR Corporation for handling and shipping the CD. This fee has been kept as low as possible, while still facilitating the distribution and user support that the MODTRAN recipients have come to expect. The intention of the Fee is to cover delivery of the code and documentation, plus 'User Support' which typically encompasses:

- Software reproduction costs
- Maintenance of delivery system, including web page and access
- Configuration Control of versions, including distribution of errata
- General Technical Support of MODTRAN4, providing User Services related to current capabilities, methodologies, and implementation, and to augment the User Instructions
- Code Validation/Verification

While prior versions of MODTRAN have required a signed Non-Disclosure Agreement (NDA), access to MODTRAN4 will require that this **new NDA** be signed and the fee paid before the code can be delivered. [Please note that there will be no longer be 'ftp' password access]. ***The fee payment instructions will be supplied upon receipt of the signed NDA.*** Because the fee is in direct support of the User, all receiving parties (Universities, Corporations, and Government Agencies) are subject to the assessment. Additionally, while the wording of the agreement uses the collective descriptor of CORPORATION, that really is meant to denote an individual research group. If any single CORPORATION has disparate research groups, each using MODTRAN4 in a different capacity, then the fee applies separately to each group. To do otherwise (distribute across research applications) constitutes secondary re-distribution, which must be individually negotiated with the AIR FORCE.

Signed NDA Document should be FAXed to 781-377-3138, attn: Michael Hoke or Karen Doherty.

THIS AGREEMENT is entered into for the purpose of establishing the respective rights and interests of the parties hereto.

WHEREAS, THE UNITED STATES AIR FORCE, at the Air Force Research Laboratory, SPACE VEHICLES DIRECTORATE, Hanscom AFB, located at 29 Randolph Rd., HAFB, MA 01731, (hereinafter referred to as "the AIR FORCE") is in possession of certain proprietary information including Patented software, MODTRAN 4.0, related to atmospheric radiative transfer (hereinafter referred to as "MODTRAN4"), and

WHEREAS, the AIR FORCE is currently holding a patent on MODTRAN4 (Patent Number 5,884,226; 16 March 1999);

WHEREAS, _____, (hereinafter referred to as "the CORPORATION"), a fully owned corporation, government agency, or non-profit institution, and subsidiaries thereof, is desirous of inspection, reviewing, and using MODTRAN. 4.0 in order to permit the CORPORATION to evaluate and participate in its continued development and application, and the AIR FORCE is willing to disclose the same to the CORPORATION under the terms and conditions specified below; NOW, THEREFORE, it is agreed that:

1. The AIR FORCE will provide/disclose MODTRAN4 to the CORPORATION, upon receipt of this signed document and the sum of \$300, the fee increase associated with the elimination of any 'ftp' access;
2. The AIR FORCE will permit open communications between the AIR FORCE personnel and the personnel of the CORPORATION as may be directly involved in implementation of MODTRAN4, such interactions limited to regular working hours. The exact dates and length of such communications will be left open to the exigencies of AIR FORCE support. The potential for more complex and special interfacing on MODTRAN4 may have to be separately negotiated between the CORPORATION AND THE AIR FORCE with funding provided by the CORPORATION;
3. The CORPORATION agrees to receive MODTRAN4 in confidence and to maintain its proprietary status. MODTRAN4 is to be used by the CORPORATION solely for the purpose of CORPORATION applications; the CORPORATION agrees that it will not use or disclose the same in any proprietary way without first obtaining written permission from or entering into a Patent License, a Cooperative Research and Development Agreement (CRDA) and/or a Government Agency Memorandum of Understanding (MOU) with the AIR FORCE which will permit such disclosure.
4. The CORPORATION will have no monetary obligation, beyond the fee, to the AIR FORCE if the CORPORATION does not disclose or distribute MODTRAN4 to other potential recipients, as submitted to it under this agreement;
5. The CORPORATION's obligation to maintain MODTRAN4 in confidence shall not extend to portions of MODTRAN4 which are general knowledge or available in the public domain or in the CORPORATION's possession or custody as evidenced by dated prior releases or papers, NOT to include the **beta release** of MODTRAN4;
6. MODTRAN4, as provided to the CORPORATION by the AIR FORCE under this agreement, shall remain the property of the AIR FORCE; the CORPORATION shall make no copies of any of MODTRAN4 provided hereunder, except to the extent necessary to permit proper use within the CORPORATION, unless previously negotiated under the terms of Paragraph 3, above;
7. The CORPORATION shall limit access to MODTRAN4 provided hereunder to only those of its personnel as may be directly involved in the CORPORATE applications and inform such personnel that said MODTRAN4 is the property of the AIR FORCE, and the CORPORATION shall provide to the AIR FORCE the list of CORPORATION personnel having rightful access to MODTRAN4; AND
8. Notwithstanding any of the foregoing provisions, nothing herein contained shall be construed as giving the CORPORATION any license or right in any invention or discovery or information arising directly out of MODTRAN4, provided hereunder. This provision will not constitute any infringement of the CORPORATION's pursuit of scientific applications, validation, presentation, and publication in which MODTRAN4 may have been employed. The CORPORATION retains sole control over its implementation of its

own scientific data and insights, without prior regard to MODTRAN4 disclosure. All such traditional use of MODTRAN4 is encouraged.

9. The CORPORATION may NOT elect to include MODTRAN4 in any commercial and/or proprietary venture, as a subroutine or feature of a commercial product without first contacting the AIR FORCE regarding licensing and/or other required negotiations.,

10. While modification of the code or databases is permitted for non-commercial use, any and all results produced with such modified code must be clearly identified as output from a "Modified Version of MODTRAN4"; and the coding should be transferable back to the AIR FORCE, to the extent that it corrects any unintended errata.

11. Government agencies are subject to this agreement and fee structure because the intent is to supply User Support; the US Government Patent provides full access to MODTRAN4 by right; this right is not construed to cover User Support, as necessitated by THE AIR FORCE.

Signatures:

For the CORPORATION

CORPORATION Address, Telephone Number:

Technical Point of Contact, INCLUDE e-mail address (recipient of 'instructions')

List of corporate personnel having rightful access to MODTRAN4:

For the AIR FORCE:

Dr. Michael Hoke
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